United Nations CAT/C/SWE/QPR/8

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the eighth periodic report of Sweden*

Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

Follow-up questions from the previous reporting cycle

1. In paragraph 22 of its previous concluding observations (see CAT/C/SWE/CO/6-7), the Committee requested Sweden to provide further information regarding areas of particular concern identified by the Committee in paragraphs 7 (fundamental legal safeguards), 8 (a) (imposition of restrictions, including isolation), 14 (investigations) and 15 (a) (hate crimes). Noting that a reply concerning the information sought by the Committee was provided on 26 November 2015 (see CAT/C/SWE/CO/6-7/Add.1), the Committee expresses appreciation for the State party's responses on those matters and for the substantive information provided. In view of that information, the Committee considered that initial steps had been taken by the State party to implement the recommendations included in paragraphs 7 and 15 (a). It also considered that substantive steps had been taken to address the Committee's recommendations in paragraphs 8 (a) and 14 (see the letter of 29 August 2016 sent to the State party by the Chair of the Committee and the Special Rapporteur for follow-up to concluding observations).[1]

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (see CAT/C/SWE/CO/6-7, para. 6),[2] please provide updated information on the measures taken to adopt a definition of torture in domestic criminal law that is consistent with article 1 of the Convention. Please indicate the measures adopted by the State party to include torture as a separate and specific crime in its legislation and to ensure that such crimes are punished with appropriate sentences that take into account their seriousness, in accordance

* Adopted by the Committee at its fifty-ninth session (7 November-7 December 2016).

[1] See http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SWE/INT_CAT_FUL_SWE_25023_E.pdf.

[2] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

with the provisions of the Convention. Has the State party taken steps to ensure that acts amounting to torture are not subject to any statute of limitations?

Article 2[3]

3. In the light of the Committee's previous concluding observations (para. 7) and the State party's follow-up replies, please provide information on the steps taken and procedures in place to ensure, in law and in practice, that all persons deprived of their liberty are guaranteed:

(a) Access to a lawyer without undue delay;

(b) Access to a doctor and the right to a medical examination. How are detainees provided with information on their right to request an independent examination by a doctor and to ensure the accuracy of medical reports about them, including the right to see the reports?

(c) The right to be informed of their rights at the time of their arrest, and of the charges against them, and the right to inform a family member or person of their choice about their arrest within a short period of time.

4. Please describe the measures taken to broaden the mandate and strengthen the independence of the Equality Ombudsman, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).[4]

5. Please provide information on the additional material, human and budgetary resources granted to the Office of the Parliamentary Ombudspersons to carry out its mandate as the national preventive mechanism under the Optional Protocol to the Convention.

6. Further to the Committee's previous concluding observations (paras. 16 and 19), please provide updated information on the legislative, administrative and other measures taken to eliminate all forms of violence against women, including domestic violence, rape and female genital mutilation. Please also provide information on the protection and support services available to victims of gender-based violence in the State party. Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions, and sentences handed down in cases of gender-based violence since the consideration of the State party's previous periodic reports.

7. With regard to the Committee's previous concluding observations (paras. 12, 17 and 19), please provide updated information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions, and sentences imposed in cases of human trafficking since the consideration of the State party's previous periodic report. Please also provide information on:

[3] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[4] See General Assembly resolution 48/134, annex.

(a) Any new legislation or measures that have been adopted to prevent, combat or criminalize trafficking in persons;

(b) The results of the 2014 action plan for the protection of children against human trafficking, exploitation and sexual assault;

(c) The measures adopted to minimize the risk of unaccompanied children becoming victims of trafficking;

(d) The measures adopted to ensure that victims of human trafficking have access to effective remedies and reparation;

(e) The signature of agreements with countries concerned to prevent and combat human trafficking.

Article 3

8. In June 2016, the Swedish Parliament passed a law proposing that the State party's asylum regulations be temporarily brought into line with the minimum level in European Union law and international conventions. Please explain the reasons for this legislative reform and how it is compatible with articles 3 and 14 of the Convention.

9. With reference to the previous concluding observations (para. 11), please detail what steps have been taken to establish clear guidelines and related training on the investigation and documentation of torture and on the identification of torture victims among asylum seekers. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or may be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous periodic report. Please provide details on the grounds on which they were sent back, including the list of countries to which individuals were returned. Please provide updated information on the type of appeal mechanism that exists, any appeals that have been made and the outcome of those appeals.

10. Please indicate the number of refoulements, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances where the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures have been taken in such cases with regard to subsequent monitoring?

Articles 5-9

11. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention.

12. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

13. Please clarify what mutual judicial assistance treaties or agreements the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

14. With reference to the previous concluding observations (para. 18), please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether the State party has developed methodology to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment, and if so, please provide information on the methodology.

15. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?

Article 11

16. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or on any arrangements for custody that may have been introduced since the consideration of the previous periodic report. Please indicate the frequency with which they are reviewed.

17. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and on the occupancy rate of all places of detention. Please comment on non-governmental reports indicating inadequate access to dental care at the Falun and Växjö prisons and complaints about the quality of dental care in the Malmö prison.[5]

18. Bearing in mind the Committee's previous concluding observations (para. 8) and the State party's follow-up replies, please provide information on the measures taken to ensure that the guidelines concerning restrictions and long periods of pretrial detention ("Riktlinjer gällande restriktioner och långa häktningstider", RåR 2015:1) and the regulations and general advice on restrictions ("Föreskrifter och allmänna råd om restriktioner", ÅFS 2015:2), in force since 5 May 2015, fully take into consideration the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), in particular rules 36 to 46 which are on restrictions, discipline and sanctions. Please also comment on reports that inmates at the Malmö remand prison have often been subjected to immobilization while naked. Please clarify whether there is a formalized internal complaint mechanism in prisons.

19. Has the State party taken steps to limit the length of pretrial detention? Please provide information on the efforts of the State party to meet the special needs of minors in detention, especially those in pretrial detention (para. 9).

20. Please provide statistical data regarding deaths in custody during the period under consideration, disaggregated by place of detention, the sex, age, and ethnicity or nationality of the deceased, and the cause of death. Please provide detailed information on the results of the investigations into those deaths and on the measures taken to prevent similar cases from occurring in the future. Please indicate whether relatives received compensation in any of these cases. Please also provide information on any investigations and disciplinary

[5] European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT/Inf (2016) 1, para. 77.

or criminal proceedings initiated, and on the compensation awarded, with regard to the death of an Iraqi citizen during a deportation procedure on 17 March 2015.

21. Please provide information about the frequency of inter-prisoner violence, including any cases involving possible negligence on the part of law enforcement personnel, and about the number of complaints made in this regard and their outcome. What preventive measures have been taken?

22. In the light of the Committee's previous concluding observations (art. 10), please provide information on how the State party will ensure that detention of asylum seekers is used only as a last resort, and where necessary, and for as short a period as possible, and how it will further implement alternatives to detention. What measures have been taken to ensure that persons detained under legislation on aliens are not placed in penitentiary establishments?

23. With reference to the Committee's previous concluding observations (para. 13), please indicate the measures taken by the State party to ensure that coercive and intrusive measures in psychiatric hospitals are only used as a measure of last resort, for the shortest possible time and under strict medical supervision. Please comment on reports that doctors authorize or confirm recourse to means of restraint by telephone, without actually seeing and examining the patient. Please also provide information on the concrete measures taken by the State party to address concerns regarding the possible use of electroconvulsive therapy as a compulsory treatment.

24. Please specify the number of persons deprived of their liberty in psychiatric hospitals and in other institutions for persons with psychosocial disabilities, including care homes. Please indicate what the situation is with respect to alternative forms of treatment, such as community-based rehabilitation services and other outpatient treatment programmes.

Articles 12 and 13

25. Bearing in mind the Committee's previous concluding observations (para. 14), please indicate what measures the State party has put in place to ensure prompt, impartial and effective investigation by an independent body into all allegations of ill-treatment and excessive use of force by law enforcement officers. In view of the State party's follow-up replies, please indicate what steps have been taken to ensure the functional independence of the new Department of Special Investigations (SU) — the body that was established on 1 January 2015 and is entrusted with investigating complaints against the police.

26. As requested in the Committee's previous concluding observations (para. 19), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality, and place of detention, on complaints of acts of torture or ill-treatment recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanction applied. Please provide examples of relevant cases and/or judicial decisions.

Article 14

27. With reference to the previous concluding observations (para. 19), please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture or their families, since the consideration of the previous periodic report. This should include the number of requests for compensation that have been made, the number granted, and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation

provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

28. Please provide information on concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

29. With respect to the previous concluding observations (paras. 15 and 19), and the State party's follow-up replies, please provide information on any additional measures taken to combat racially motivated crimes against persons of Arab and African origin and violence against persons belonging to the Roma and Jewish communities. What concrete measures have been taken to ensure that all crimes and acts of violence that target persons on the basis of their sexual orientation are properly and promptly investigated and prosecuted?

Other issues

30. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those anti-terrorism measures have affected human rights safeguards in law and in practice. Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with the relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers, the number of persons convicted under such legislation, the legal safeguards and remedies available to persons subjected to anti-terrorism measures in law and in practice, whether there have been any complaints of non-observance of international standards, and the outcome of those complaints.

General information on other measures and development relating to the implementation of the Convention in the State party

31. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party may consider relevant.